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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,111	05/06/2004	Wayne G. Floe	10046D	7270

7590 03/02/2005
Charles A. Johnson
1448 90th Avenue
Amery, WI 54001

EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

12

Office Action Summary

Application No.

10/840,111

Applicant(s)

FLOE, WAYNE G.

Examiner

Hilary Gutman

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 and 13-20 is/are allowed.
- 6) ☒ Claim(s) 7-10 and 12 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/24/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The prosecution of the merits, which was closed in the last office action, is hereby reopened and new rejections set forth below.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, “fender coupling means” of claim 10, the “captive nut retaining means” of claim 11, and the “fender mounting structure” of claim 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stow.

Stow (769,507) discloses a structural member (seen in Figure 1) comprising: tie-down means 23, 24 for providing releasable holding and slidable adjustment of restraints B, C, D, E, utilized for retaining a load A; gripping means 20 for gripping an associated structure; and axle mounting means 3, 8 for providing adjustable positioning and mounting of an associated axle structure.

With regard to claim 12, rack mounting means 9 is provided in cooperation with said gripping means and said tie-down means for mounting a rack structure.

5. Claims 7, 9-10, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Huber.

Huber (2,887,238) discloses a structural member (seen in Figure 2) comprising: tie-down means 24 for providing releasable holding and slidable adjustment of restraints utilized for retaining a load; gripping means 66 for gripping an associated structure; and axle mounting means 28 for providing adjustable positioning and mounting of an associated axle structure.

With regard to claim 9, fender mounting means are provided in cooperation with said gripping means and said axle mounting means for providing adjustable positioning and mounting of an associated fender 52.

With regard to claim 10, said fender mounting means includes: supporting means 16 in cooperative relationship with said gripping means and said axle mounting means for providing adjustable positioning of the associated fender; and fender coupling means 50 affixed to said supporting means for supporting an associated fender.

With regard to claim 12, rack mounting means 26 is provided in cooperation with said gripping means and said tie-down means for mounting a rack structure.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stow as applied to claim 7 above in view of the well known prior art.

Stow is silent on the material used for the structural member.

The well known prior art teach the use and desirability of stainless steel which is a non-corrosive material for use in structural members where rust is possible.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the structural member out of stainless steel or non-corrosive material in order to prevent the member from rusting with prolonged use in an open environment. The examiner takes official notice to this effect that non-corrosive materials are well known in the prior art and are desirable for structural members of this type.

Allowable Subject Matter

8. The indicated allowability of claims 7-12 is withdrawn in view of the newly discovered reference(s) to Stow and Huber. Rejections based on the newly cited reference(s) are set forth above.

9. Claims 1-6 and 13-20 are allowed.

10. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

14. Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, D.C. 20231


or faxed to:

(703) 872-9326, (for formal communications intended for entry)

or:

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).


Hilary Gutman

February 22, 2005